

ORIGINAL

6/5/07



0000073345

COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

BRIAN C. McNEIL
EXECUTIVE DIRECTOR



SECURITIES DIVISION
 1300 West Washington, Third Floor
 Phoenix, AZ 85007
 TELEPHONE: (602) 542-4242
 FAX: (602) 594-7470
 E-MAIL: securitiesdiv@azcc.gov

615

ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Mike Gleason – Chairman
 William A. Mundell
 Jeff Hatch-Miller
 Kristin K. Mayes
 Gary Pierce

Arizona Corporation Commission
DOCKETED

MAY 24 2007

FROM: Matthew J. Neubert *mjn*
 Director of Securities

DOCKETED BY	<i>nr</i>
-------------	-----------

DATE: May 17, 2007

RE: Proposed Order to Cease and Desist, Order of Disgorgement, Order for Administrative Penalties and Consent to Same by Phillip Robert Ohst and Mary Elizabeth Ohst (S-20483A-06-0661)

CC: Brian C. McNeil, Executive Director

Attached is a proposed Order to Cease and Desist, Order of Disgorgement, Order for Administrative Penalties and Consent to Same by Phillip Robert Ohst ("Ohst") and Mary Elizabeth Ohst (collectively, "Respondents"). The Order requires Respondents to cease and desist their activity, disgorge commissions earned by Ohst in the amount of \$89,428.57 and pay an administrative penalty in the amount of \$10,000.

In January 2002, Ohst signed a Marketing Agreement with Yucatan Resorts, S.A. that authorized him to sell the Universal lease. The Universal lease was designed, promoted and operated by Yucatan Resorts, Inc. and involved investments in hotel units in Cancun, Mexico and other Central American locales beginning in approximately March 2000. Later, in January 2002, OHST and American Elder Group ("AEG"), executed an Assignment of Commission that required all commissions on OHST's sales of the Universal lease be paid to AEG. AEG, through sales agents such as Ohst, sold the Universal lease to Arizona investors.

AEG paid OHST commissions of 3-4% on all sales made by OHST of the Universal lease. From approximately 2002 to 2003, Ohst through AEG, offered and sold investments in the Universal lease timeshare program to approximately thirty investors in an amount in excess of \$2,000,000.

AZ CORP COMMISSION
DOCKET CONTROL

2007 MAY 24 A 10:44

RECEIVED

The Order finds that the Respondents violated A.R.S. §44-1841 and §44-1842 by selling unregistered securities while being unlicensed.

The Division believes that this Consent Order is appropriate to protect the public welfare.

Originator: William W. Black

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

In the matter of

JOHN EDWARD TENCZA and
CHRISTINE M. TENCZA, husband and
wife
2741 West Piazza Drive
Meridian, Idaho 83642

AMERICAN ELDER GROUP, L.L.C., an
Arizona limited liability company
7779 East Nestling Way
Scottsdale, Arizona 85255

AMERICAN ELDER GROUP, INC., a
Nevada corporation fka American
Investment Management Group, Inc., a
Nevada corporation
2050 Russett Way
Carson City, Nevada 89703

PHILLIP ROBERT OHST and MARY
ELIZABETH OHST, husband and wife
1837 West Claremont Street
Phoenix, Arizona 85015

GREGORY GRANT GROH and GAIL A.
GROH, husband and wife,
5237 East Michelle Drive
Scottsdale, Arizona 85254

Respondents.

DOCKET NO. S-20483A-06-0661

DECISION NO. _____

**ORDER TO CEASE AND DESIST, ORDER
OF DISGORGEMENT, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME BY: PHILLIP
ROBERT OHST AND MARY ELIZABETH
OHST**

Respondents PHILLIP ROBERT OHST and MARY ELIZABETH OHST

("RESPONDENTS") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease and Desist, Order of Disgorgement, Order for Administrative Penalties and Consent to Same ("Order"). RESPONDENTS admit the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and

1 Conclusions of Law contained in this Order; and consent to the entry of this Order by the
2 Commission.

3 **I. FINDINGS OF FACT**

4 1. PHILLIP ROBERT OHST ("OHST"), whose last known address is 1837 West Claremont
5 Street, Phoenix, Arizona 85015, at all times material hereto was a resident of Arizona and was
6 licensed to sell insurance in the State of Arizona, but was not registered as a securities
7 salesperson.

8 2. At all times material hereto, OHST was married to RESPONDENT MARY ELIZABETH
9 OHST, whose last known address is 1837 West Claremont Street, Phoenix, Arizona 85015. All
10 action taken by OHST was in furtherance of and for the benefit of the marital community.

11 3. The Universal lease was designed, promoted and operated by Yucatan Resorts, Inc.
12 ("Yucatan"), along with Yucatan Resorts, S.A. ("Yucatan-S.A.") and involved investments in hotel
13 units in Cancun, Mexico and other Central American locales from approximately March 2000 to
14 December 2002.

15 4. Resort Holdings International, Inc. ("RHI") and Resort Holding International, S.A. ("RHI-
16 S.A.") began replacing Yucatan as the primary promoter and operator of the Universal lease
17 timeshare program within the State of Arizona in or around May 2002.

18 5. From approximately March 2000 to May 2003 Yucatan and RHI sold the Universal lease to
19 Arizona investors through agents such as insurance sales people.

20 6. AEG, L.L.C. is an Arizona limited liability company formed in 2000 with at least one
21 office in Arizona through which it has transacted business within and from Arizona.

22 7. AEG, INC., formerly known as American Investment Management Group, Inc., is a
23 Nevada corporation with at least one office in Arizona through which it has transacted business
24 within and from Arizona. "AEG" hereafter refers to AEG, L.L.C. and AEG, INC. collectively.
25 AEG, through sales agents such as OHST, sold the Universal lease to Arizona investors.

8. From approximately 2002 to 2003, OHST through AEG, offered and sold unregistered securities in the form of investment contracts to approximately thirty Arizona investors. The principal amount of the investment contracts purchased, in the form of Universal leases, exceeded \$2,000,000.

9. Yucatan, RHI and AEG paid OHST a total of \$89,428.57 in commissions for sales made to Arizona investors.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

2. OHST offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

3. OHST violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

4. OHST violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer or salesman nor exempt from registration.

5. OHST's conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-2032.

6. OHST's conduct is grounds for an order of restitution pursuant to A.R.S. § 44-2032.

7. OHST's conduct is grounds for administrative penalties under A.R.S. § 44-2036.

III. ORDER

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and RESPONDENTS' Consent to the Entry of Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, and any of RESPONDENTS' agents, employees, successors and assigns, permanently cease and desist from

1 violating the Securities Act. RESPONDENTS shall not sell any securities in or from Arizona
2 without being registered in Arizona as dealers or salesmen, or exempt from such registration.
3 RESPONDENTS shall not sell securities in or from Arizona unless the securities are registered in
4 Arizona or exempt from registration.

5 IT IS FURTHER ORDERED that RESPONDENTS comply with the attached Consent to
6 Entry of Order.

7 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall,
8 jointly and severally, disgorge all sales commissions earned in connection with the sale of the
9 Universal lease in this matter as reflected in the records of the Commission, such disgorgement
10 shall be in the amount of \$89,428.57 ("Disgorgement").

11 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall,
12 jointly and severally pay an administrative penalty in the amount of \$10,000.

13 The payment obligations for these administrative penalties shall be subordinate to any
14 Disgorgement obligations ordered herein and shall become immediately due and payable only after
15 Disgorgement payments have been paid in full or upon RESPONDENTS' default with respect of
16 Disgorgement obligations.

17 Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of
18 this Order until paid in full.

19 Payments shall be made by cashier's check or money order payable to the "State of
20 Arizona" to be placed in an interest bearing account maintained and controlled by the Commission.
21 Upon receipt, the Commission shall disburse the Disgorgement funds on a pro rata basis to all
22 known investors shown on the records of the Commission who acquired their Universal lease
23 through AEG as a result of OHST's sales activities. Any Disgorgement funds that the
24 Commission determines it is unable to or cannot feasibly disburse shall be transferred to the
25 General Fund of the State of Arizona.

26

Any Disgorgement funds that the Commission cannot disburse because an investor refuses to accept such payment shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the Commission.

For purposes of this Order, a bankruptcy filing by any of the RESPONDENTS shall be an act of default. If any Respondent does not comply with this Order, any outstanding balance may be deemed in default and shall be immediately due and payable.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2007.

BRIAN C. McNEIL
Executive Director

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, Executive Assistant to the Executive Director, voice phone number 602-542-3931, E-mail lhogan@azcc.gov.

wwb

CONSENT TO ENTRY OF ORDER

1. Respondents PHILLIP ROBERT OHST AND MARY ELIZABETH OHST ("RESPONDENTS") admit the jurisdiction of the Commission over the subject matter of this proceeding. RESPONDENTS acknowledges that they have been fully advised of their right to a hearing to present evidence and call witnesses and RESPONDENTS knowingly and voluntarily waive any and all rights to a hearing before the Commission and all other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. RESPONDENTS acknowledge that this Order To Cease and Desist, Order of Disgorgement, Order for Administrative Penalties and Consent to Same ("Order") constitutes a valid final order of the Commission.

2. RESPONDENTS knowingly and voluntarily waive any right under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief resulting from the entry of this Order.

3. RESPONDENTS acknowledge and agree that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

4. RESPONDENTS acknowledge that they have been represented by an attorney in this matter, that they have reviewed this Order with their attorney, Sherman D. Fogel, and understand all terms it contains.

5. RESPONDENTS neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order.

6. RESPONDENTS declare that OHST was recruited to sell the Universal lease by Gregory Groh, an attorney licensed within the State of Arizona, with whom he had worked previously and by John E. Tencza, owner of AEG.

7. By consenting to the entry of this Order, RESPONDENTS agree not to take any action or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order

1 is without factual basis. Notwithstanding the foregoing, this Order is not intended to collaterally
2 estop, factually bind or preclude the RESPONDENTS from defending themselves in any
3 administrative, civil or criminal proceedings to which the Commission is not a party, including, to
4 the extent allowed by law, being permitted to fully explain the facts and potential mitigating
5 circumstances surrounding RESPONDENTS involvement in the sale of the Universal lease.

6 RESPONDENTS will undertake steps necessary to assure that all of their agents and employees
7 understand and comply with this agreement.

8 8. While this Order settles this administrative matter between RESPONDENTS and
9 the Commission and all claims of the Commission against RESPONDENTS arising out of
10 RESPONDENTS' sales of the Universal lease within or from the State of Arizona,
11 RESPONDENTS understand that this Order does not preclude the Commission from instituting
12 other administrative or civil proceedings based on violations that are not addressed by this Order.

13 9. RESPONDENTS understand that this Order does not preclude the Commission
14 from referring this matter to any governmental agency for administrative, civil, or criminal
15 proceedings that may be related to the matters addressed by this Order.

16 10. RESPONDENTS understand that this Order does not preclude any other agency or
17 officer of the State of Arizona or its subdivisions from instituting administrative, civil, or criminal
18 proceedings that may be related to matters addressed by this Order.

19 11. RESPONDENTS agree that they will not apply to the state of Arizona for
20 registration under the Securities Act of Arizona or under the Arizona Investment Management Act
21 for at least one year from the entry date of this Order *and* until such time as each of them as
22 complied with all terms and conditions of this Order, including the payment in full of all
23 Disgorgement amounts and administrative penalties promulgated under this Order.

24 12. RESPONDENTS agree that they will not exercise any control over any entity that
25 offers or sells securities or provides investment advisory services within or from Arizona until
26

1 such time as all Disgorgement amounts and administrative penalties under this Order are paid in
2 full.

3 13. RESPONDENTS will continue to cooperate with the Securities Division including,
4 but not limited to, providing complete and accurate testimony at any hearing in this matter and
5 cooperating with the state of Arizona in any related investigation or any other matters arising from
6 the activities described in this Order.

7 14. RESPONDENTS acknowledge that any Disgorgement or administrative penalty
8 obligations imposed by this Order are obligations of the RESPONDENTS as well as the marital
9 community.

10 15. RESPONDENTS consent to the entry of this Order and agree to be fully bound by
11 its terms and conditions.

12 16. RESPONDENTS acknowledge and understand that if they fail to comply with the
13 provisions of the Order and this Consent, the Commission may bring further legal proceedings
14 against them for enforcement of the Order, including application to the superior court for an order
15 of contempt.

16 17. RESPONDENTS agree that until Disgorgement and administrative penalties are
17 paid in full, each of them shall notify the Director of the Securities Division within 30 days of any
18 change in home address or any change in any of their ability to pay amounts due under this Order.

19 18. RESPONDENTS understand that default shall render them liable to the
20 Commission for its costs of collection and interest at the maximum legal rate.

21 19. RESPONDENTS agree and understand that if they fail to make any payment as
22 required in the Order, any outstanding balance shall be in default and shall be immediately due and
23 payable without notice or demand. RESPONDENTS agree and understand that acceptance of any
24 partial or late payment by the Commission is not a waiver of default by the Commission.

20. In connection with this Order and RESPONDENTS' Consent to Entry of Order, RESPONDENTS have provided to the Commission RESPONDENTS' sworn Statement of Personal Financial Condition and RESPONDENTS' tax returns for 2003-05.

Agreed: Phillip Robert Ohst
Phillip Robert Ohst, a married man

Agreed: Mary Elizabeth Ohst
Mary Elizabeth Ohst, a married woman

STATE OF ARIZONA)
County of Maricopa) ss

SUBSCRIBED AND SWORN TO BEFORE me this 16th day of April, 2007.

[Signature]
NOTARY PUBLIC

My Commission Expires:

